

Remarks

This Application has been carefully reviewed in light of the Office Action dated January 23, 2008. Claims 1, 3-7, 9-13, 15-19, and 21-25 are pending and stand rejected. Applicants respectfully traverse these rejections. Applicants respectfully request reconsideration and favorable action in this case.

Rejection of Claims 1, 5-7, 11-13, 17-19, and 23-25 under 35 U.S.C. § 103(a)

Claims 1, 5-7, 11-13, 17-19, and 23-25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Lim* in view of U.S. Patent No. 5,708,654 to Arndt, et al. ("*Arndt*"). Applicants respectfully traverse this rejection. For example, Claim 1 recites:

A method of communicating data between a client and a server comprising:

initiating a participating application for transmitting packets between a client and a server, wherein the participating application participates in a transport protocol;

initiating a non-participating application for transmitting packets between the client and the server, wherein the non-participating application does not participate in the transport protocol;

determining whether a quad of a packet is in a list of non-participating connections to the server;

in response to determining that the quad of the packet is in the list, transmitting the packet on a non-participating path through the non-participating application; and

in response to determining that the quad of the packet is not in the list, transmitting the packet on a participating path through the participating application.

The proposed *Lim-Arndt* combination fails to disclose, teach, or suggest every element of Claim 1 for at least several reasons. Additionally, the proposed *Lim-Arndt* combination is improper. Thus, as explained further below, rejection of Claim 1 over the proposed *Lim-Arndt* combination is improper.

I. The proposed *Lim-Arndt* combination fails to disclose "determining whether a quad of the packet is in a list of non-participating connections to the server."

First, as previously noted by Applicants, *Lim* fails to disclose "determining whether a quad of the packet is in a list of non-participating connections to the server." More specifically, *Lim* fails to disclose "determining whether a quad of the packet is in a list of

non-participating connections to the server” (emphasis added). Additionally, *Lim* fails to disclose “determining whether a quad of the packet is in a list of non-participating connections to the server” (emphasis added). Combining *Lim* with *Arndt* fails to remedy these omissions, as the cited portion of *Arndt* also fails to disclose these elements. Thus, as described further below, the proposed *Lim-Arndt* combination fails to disclose “determining whether a quad of the packet is in a list of non-participating connections to the server” for at least these reasons.

a. The proposed *Lim-Arndt* combination fails to disclose “determining whether a quad of the packet is in a list of non-participating connections to the server” (emphasis added)

As Applicants previously noted, the Examiner, in addressing this element of Claim 1 (*Office Action*, p. 4), references a portion of *Lim* that merely discusses the use of a remote method table and a local method table to identify dispatch methods associated with client representations. In particular, the cited portion discloses only that:

In another aspect of the invention, a distributed client/server computing system is provided which includes a plurality of client representations, a remote method table and a local method table... In contrast, the local method table is arranged to identify local dispatch methods associated with a second set of the client representations. The local dispatch methods are arranged to cause invocation requests to pass to a servant without being routed through the transport layer, thereby reducing the computing overhead associated with the invocation of local objects.

Lim, col. 2, ll. 39-42 and 51-57, emphasis added.

As Applicants previously noted (see, e.g., Response to Final Office Action filed May 29, 2007, p. 12), however, the Examiner has provided no basis or explanation for the assertion that the local method table comprises “a list of non-participating connections to the server.” Instead, *Lim* clearly indicates that the method table “contains a list of pointers” that point to a set of stub functions (*Lim*, col. 6, ll. 61-67, emphasis added). Thus, the Examiner has not shown that *Lim* discloses “determining whether a quad of a packet is in a list of non-participating connections to the server” (emphasis added) as required by Claim 1.

Applicants respectfully note that the Examiner has repeatedly failed to address this argument. Applicants respectfully remind the Examiner that “[w]here the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the

applicant's argument and answer the substance of it." M.P.E.P. § 707.07(f), emphasis added. Applicants request that, if the Examiner intends to maintain this rejection, the Examiner address the substance of Applicants' argument with respect to this aspect of the rejection as required by M.P.E.P. § 707.07(f).

Combining *Lim* with *Arndt* fails to remedy this omission. The Examiner fails to identify any "list of non-participating connections" in *Arndt*. As a result, the proposed *Lim-Arndt* combination fails to disclose, teach, or suggest "determining whether a quad of the packet is in a list of non-participating connections to the server" (emphasis added) as recited by Claim 1.

b. The proposed *Lim-Arndt* combination fails to disclose "determining whether a quad of the packet is in a list of non-participating connections to the server" (emphasis added)

As Applicants previously noted, *Lim* fails to disclose "determining whether a quad of the packet is in a list of non-participating connections to the server" (emphasis added). Moreover, even the Examiner concedes that "*Lim* does not teach a quad of packets is in the list." *Office Action*, p. 4. Therefore, in addressing this element, the Examiner proposes combining *Lim* with *Arndt*.

Combining *Lim* with *Arndt*, however, fails to remedy this omission. The cited portion of *Arndt* describes a router that "operate[s] by forwarding packets based on IP addresses stored in its router table." *Arndt*, col. 2, ll. 55-57, emphasis added. The cited portion of *Arndt* does not disclose "determining whether [any element] is in a list," nor does the cited portion disclose any "quad of [the] packet." Thus, the cited portion of *Arndt* fails to disclose "determining whether a quad of the packet is in a list of non-participating connections to the server." As a result, the proposed *Lim-Arndt* combination also fails to disclose "determining whether a quad of the packet is in a list of non-participating connections to the server" (emphasis added).

As a result, the proposed *Lim-Arndt* combination fails to disclose "determining whether a quad of the packet is in a list of non-participating connections to the server" for at least these reasons.

II. The proposed *Lim-Arndt* combination fails to disclose “in response to determining that the quad of the packet is in the list, transmitting the packet on a non-participating path through the non-participating application.”

Second, the proposed *Lim-Arndt* combination also fails to disclose “in response to determining that the quad of the packet is in the list, transmitting the packet on a non-participating path through the non-participating application” (emphasis added). More specifically, the cited portions of both *Lim* and *Arndt* fail to disclose “determining whether a quad of a packet is in a list of non-participating connections to the server.” As noted above, the Examiner concedes that *Lim* “does not teach a quad of packets is in the list” or “[a] determination is made by using the quad of packets.” *Office Action*, p. 4. Additionally, as noted above, the cited portion of *Arndt* discloses “forwarding packets based on IP addresses stored in its router table.” *Arndt*, col. 2, ll. 55-57. The Examiner does not indicate that *Arndt* “determin[es] that [any element] is in [a] list.” Thus, the cited portions of both *Lim* and *Arndt* fail to disclose performing any action “in response to determining that the quad of the packet is in the list.” As a result, the proposed *Lim-Arndt* combination fails to disclose “in response to determining that the quad of the packet is in the list, transmitting the packet on a non-participating path through the non-participating application” as required by Claim 1.

III. The proposed *Lim-Arndt* combination fails to disclose “in response to determining that the quad of the packet is not in the list, transmitting the packet on a participating path through the participating application.”

Third, the proposed *Lim-Arndt* combination also fails to disclose “in response to determining that the quad of the packet is not in the list, transmitting the packet on a participating path through the participating application” (emphasis added). More specifically, as noted above, the cited portions of both *Lim* and *Arndt* fail to disclose “determining whether a quad of a packet is in a list of non-participating connections to the server.” As also noted above, the Examiner concedes that *Lim* “does not teach a quad of packets is in the list” or “[a] determination is made by using the quad of packets.” *Office Action*, p. 4. Additionally, as noted above, the cited portion of *Arndt* discloses “forwarding packets based on IP addresses stored in its router table.” *Arndt*, col. 2, ll. 55-57. The Examiner does not indicate that *Arndt* “determin[es] that [any element] is not in [a] list.” Thus, the cited portions of both *Lim* and

Arndt fail to disclose performing any action “in response to determining that the quad of the packet is not in the list.” As a result, the proposed *Lim-Arndt* combination fails to disclose “in response to determining that the quad of the packet is not in the list, transmitting the packet on a participating path through the participating application” as required by Claim 1.

IV. The proposed *Lim-Arndt* combination would render *Lim* unsatisfactory for its intended purpose.

The Examiner proposes replacing the “route local process and remote processing” of *Lim* with the routing table of *Arndt*. *Office Action*, pp. 4-5. Applicants respectfully note, however, that if a “proposed modification would render the prior invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” M.P.E.P. §2143.01. *Lim* indicates that “[m]ethod table dispatch 24 processes a method call received from a client. *Lim*, col. 6, l. 61 - col. 7, l. 16. “The method table dispatch mechanism uses a method table that contains a list of pointers, or location indicators, to stub functions 25, one of which is associated with the method to be invoked.” *Lim*, col. 6, ll. 64-67. By contrast, the router table of *Arndt* stores IP addresses. *Arndt*, col. 2, ll. 55-57. Thus, replacing the method table of *Lim* with the routing table of *Arndt* would prevent the methods used to process method calls from clients from being identified and invoked as the router table of *Arndt* identifies IP addresses for destinations not methods for processing method calls.

As a result, combining *Lim* with *Arndt* as proposed by the Examiner would render *Lim* unsatisfactory for its intended purpose. The proposed *Lim-Arndt* combination is, therefore, improper for at least this reason.

V. One skilled in the art would not be motivated to make the proposed *Lim-Arndt* combination.

Applicants respectfully note that, for an obviousness rejection to be appropriate, the Examiner must “identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.” *KSR Intern. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1742. (2007). “[A] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was,

independently, known in the prior art.” *Id.* Applicants respectfully submit that the Examiner’s explanation for combining the cited references fails to satisfy this requirement.

With respect to combining *Lim* with *Arndt*, the Examiner states only that:

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to have *Lim*’s system route local process and remote processing by using a routing table because both *Lim* and *Arndt* teaches [sic] routing packets to destinations.

A person with ordinary skill in the art would have been motivated to make the modification to *Lim* because having the routing method taught by *Arndt* would facilitate the connection between a source device and a target device as taught by *Arndt* (Col 2 lines 49-51)

Office Action, p. 5.

These assertions, however, do not identify any reason that would have prompted a person of ordinary skill in the relevant field or fields to combine the identified elements of *Lim* and *Arndt*. Applicants respectfully note that *Lim* makes no reference to “packets.” Even assuming that the Examiner is correct in asserting that “both *Lim* and *Arndt* teaches [sic] routing packets to destinations,” however, the mere fact that they both allegedly disclose this functionality would not motivate their combination. Furthermore, the Examiner’s assertion that “having the routing method taught by *Arndt* would facilitate the connection between a source device and a target device as taught by *Arndt*” is insufficient motivation for combining the references, because the Examiner alleges that “both *Lim* and *Arndt* [already] teaches [sic] routing packets to destination.” *Id.* Thus, according to the Examiner, combining the routing method of *Arndt* with *Lim* would not provide benefits not already provided by *Lim* itself. As a result, the Examiner fails to identify “a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.” *KSR Intern.*, 127 S.Ct. at 1742. The proposed *Lim-Arndt* combination is therefore improper for at least these reasons.

Thus, the *Lim-Arndt* combination fails to disclose, teach, or suggest every element of Claim 1. Moreover, the proposed *Lim-Arndt* combination is improper. Claim 1 is thus allowable for at least these reasons. Applicants respectfully request reconsideration and allowance of Claim 1 and its dependents.

Although of differing scope from Claim 1, Claims 7, 13, 19, and 25 include elements that, for reasons substantially similar to those discussed with respect to Claim 1, are not

disclosed by the cited reference. Claims 7, 13, 19, and 25 are thus allowable for at least these reasons. Applicants respectfully request reconsideration and allowance of Claims 7, 13, 19, and 25, and their respective dependents.

Rejection of Claims 3, 4, 9, 10, 15, 16, 21, and 22 under 35 U.S.C. § 103(a)

Claims 3, 4, 9, 10, 15, 16, 21, and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Lim* in view of *Arndt* and further in view of *RFC 793*. Claims 3 and 4 depend from Claim 1. Claims 9 and 10 depend from Claim 7. Claims 15 and 16 depend from Claim 13. Claims 21 and 22 depend from Claim 19. Claims, 1, 7, 13, and 19 have all been shown above to be allowable. Claims 3, 4, 9, 10, 15, 16, 21, and 22 are thus allowable for at least these reasons. Applicants respectfully request reconsideration and allowance of Claims 3, 4, 9, 10, 15, 16, 21, and 22.

Conclusions

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending Claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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